

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION

CONTEMPT PETITION NO.380 OF 2000

Nishanta Builders Pvt.Ltd. ...Petitioner

Vs.

Florie Blaze Valladares
and Ors. ...Respondents

Mr.S.S.Shah with M/s.Vinod Mistry & Co. for
Petitioner
Mr.V.P.Sawant with Mr.D.N.Thakur i/b M/s.Bhaskar
and Co. for Respondents 2 to 5, 7,8 and 10
Respondent nos.1,6 and 9 served
.....

CORAM : B.H.MARLAPALLE, J.
DATE : JANUARY 25, 2005

P.C.:

1. Heard the learned counsel for the Petitioner and the Respondents.

2. Civil Suit No. 5944 of 1993 came to be decreed by the City Civil Court at Bombay on 7th October, 1994 in terms of the consent terms signed between the respective parties. It appears that on 3rd February, 2000 the petitioners issued a legal notice to the respondents calling upon them to comply with the consent terms and thereafter, this petition has been presented on 18.10.2000 i.e. after about six years of the consent decree.

3. Admittedly, the petitioners have not disclosed

whether any Execution Proceedings were initiated by them and it appears that this contempt petition has been filed inter alia for execution of the decree. The learned counsel for the respondent has rightly relied upon the decision of the Supreme Court in the case of **Babu Ram Gupta Vs,. Sudhir Bhasin and another reported in A.I.R. 1979 S.C. 1528**, which states that "however improper or reprehensible the conduct of the judgment debtor be yet the act of non-compliance with the terms of the consent order, does not amount to an offence under Section 2(b) of the Contempt of Courts Act, 1971". In addition, the issue of limitation has not been properly explained notwithstanding the fact that the consent decree does not specify the period for compliance of the terms.

4. In the circumstances, it would not be safe to entertain this contempt petition and the same is hereby rejected. This order will be without prejudice to the rights and contentions of the respective parties that may arise from decree. The amount deposited be refunded to the party who has deposited the amount.

5. Civil Application No.8033 of 2000 is also disposed of.

[B.H.MARLAPALLE, J.]